

DIANE L. HOUK  
DANIEL J. KORNSTEIN  
HAL R. LIEBERMAN  
ILANN M. MAAZEL  
KATHERINE ROSENFELD  
ZOE SALZMAN  
SAM SHAPIRO  
EARL S. WARD  
O. ANDREW F. WILSON

ELLI BRINCKERHOFF ABADY WARD & MAAZEL LLP

ATTORNEYS AT LAW  
600 FIFTH AVENUE AT ROCKEFELLER CENTER  
10<sup>TH</sup> FLOOR  
NEW YORK, NEW YORK 10020

TEL: (212) 763-5000  
FAX: (212) 763-5001  
www.ecbawm.com

VASUDHA TALLA

NAIRUBY L. BECKLES  
MARISSA BENAVIDES  
DAVID BERMAN  
NICK BOURLAND  
SARA LUZ ESTELA  
ANDREW K. JONDAHL  
NOEL R. LEÓN  
SANA MAYAT  
HARVEY PRAGER  
VIVAKE PRASAD  
MAX SELVER  
EMILY K. WANGER

December 28, 2022

**By ECF**

Honorable Katharine H. Parker  
United States Magistrate Judge  
Southern District of New York  
500 Pearl Street  
New York, New York 10007

*Re: Clark, et al. v. City of New York*, No. 18 Civ. 02334 (AT) (KHP)

Dear Judge Parker,

On behalf of the Plaintiffs, we write to request a stay of discovery while Judge Torres reviews Plaintiffs' objections to Your Honor's December 8, 2022 decision on absent class discovery. The City takes no position on this request.

"[U]pon a showing of good cause a district court has considerable discretion to stay discovery" pursuant to Rule 26(c) of the Federal Rules of Civil Procedure. *Integrated Sys. & Power, Inc. v. Honeywell Int'l, Inc.*, 2009 WL 2777076, at \* 1 (S.D.N.Y. 2009). In deciding whether a stay is appropriate, courts will consider "[1] whether 'the [appeal] appear[s] to have substantial grounds [,]...[2] the breadth of discovery and the burden of responding to it,...[and 3] the unfair prejudice to the party opposing the stay.'" *Bachayeva v. Americare Certified Special Servs., Inc.*, 2013 WL 4495672, at \*4 (E.D.N.Y. Aug. 20, 2013) (quoting *In re Currency Conversion Fee Antitrust Litig.*, 2002 WL 88278, at \*1 (S.D.N.Y. Jan. 22, 2002).

All three criteria are met here. First, Plaintiffs' have presented several grounds for their objections, including a misunderstanding of the scope of the class which would render the ordered discovery unnecessary and the heavy burden on absent class members. Second, without a stay, Plaintiffs and Defendants would face a significant burden. Plaintiffs would have to first identify and enlist fifty absent class members—who may have no knowledge of this case scattered across New York City for depositions to discuss the details of their religious practices and the day of their arrest. The City for its part would have to depose the fifty class members for one and a half hours each at a time convenient for both parties. All discovery would have to

EMERY CELLI BRINCKERHOFF ABADY WARD & MAAZEL LLP

Page 2

occur in less than three months and will likely be obstructed by the holiday season and time spent briefing the objection. Third, a stay would not prejudice the City.

To minimize the burden on the parties and the Court, Plaintiffs request that discovery be stayed during the pendency of Plaintiffs' objections.

Respectfully submitted,

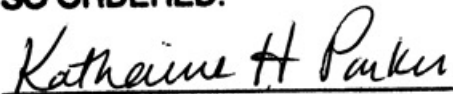
/s/

Matthew D. Brinckerhoff

cc. All Counsel of Record (*by ECF*)

**Application granted.** The deadline for absent class member discovery is stayed pending Judge Torres' decision regarding Plaintiff's objection to the Court's order granting limited absent class member discovery. In the event Plaintiff's objection is denied, absent class member discovery will be due 60 days after the date of Judge Torres' order.

**SO ORDERED:**



**HON. KATHARINE H. PARKER  
UNITED STATES MAGISTRATE JUDGE**

12/29/2022